

LEGISLATIVE RESEARCH COMMISSION

INSURANCE



**REPORT TO THE
1983 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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INSURANCE



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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
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January 12, 1983

TO THE MEMBERS OF THE 1983 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1983 General Assembly on the matters of insurance regulation, State government risk management, and credit insurance. This report is made pursuant to Resolution 61 of the 1981 General Assembly.

This report was prepared by the Legislative Research Commission's Insurance Study Committee and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,

Liston B. Ramsey
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Legislative Research Commission

W. Craig Lawing
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SUMMARY OF RECOMMENDATIONS

I. INSURANCE REGULATION

- A. The Motor Vehicle Reinsurance Facility law should be amended to spread Facility loss and clean risk recoupment surcharges, when necessary, among all motor vehicle insurance policies. See Section 1 of the bill draft in Appendix D.
- B. The monetary threshold for property damage under the Safe Driver Insurance Plan (SDIP) point system should be increased from two hundred to five hundred dollars. See Sections 2 and 14 of the bill draft in Appendix D.
- C. The statutory provision requiring insurers writing product liability insurance in North Carolina to report their underwriting experience for North Carolina insureds should be revised to require only the filing of the National Association of Insurance Commissioners (NAIC) reporting supplement. See Section 3 of the bill draft in Appendix D.
- D. The statutory provisions on the underinsured motorist coverage should be clarified with respect to insurer subrogation rights, multiple claimants, insolvent insurers, and other legal ramifications. See Sections 4 and 5 of the bill draft in Appendix D.
- E. The provision in the group health insurance continuation and conversion privileges law that restricts conversion policy rate filings to one every two years should be repealed.

~~See~~ Section 6 of the bill draft in Appendix D.

- F. Clarification is needed in the applicability clause in the group health insurance continuation and conversion privileges law. See Sections 7 and 15 of the bill draft in Appendix D.
- G. Insurance laws that have been declared unconstitutional should be removed from the statute books. See Sections 8 and 9 of the bill draft in Appendix D.
- H. Insurance statutes that contain obsolete or incomplete references should be amended accordingly. See Sections 10 through 13 of the bill draft in Appendix D.
- I. The 1983 General Assembly should examine the laws and regulations governing the procedure for licensing insurance agents and brokers.

II. STATE GOVERNMENT RISK MANAGEMENT

- A. A State Employees' Workers' Compensation Office should be established in the Department of Justice, which would handle all claims brought by State employees; and a State Employees' Workers' Compensation Fund should be established, which would be the source of payment for such claims. The Department of Crime Control and Public Safety and the Department of Transportation should be exempted from this proposal due to the peculiar requirements of the Law Enforcement Officers' Salary Continuation Plan and the Federal Highway Administration. See the bill draft that appears in Appendix F.
- B. No change should be made at this time with regard to Risk Management.

- III. CREDIT INSURANCE: Additional time should be allowed for the collection of data on credit insurance loss experience; and the General Assembly should not consider any further changes in credit insurance laws until 1985 at the earliest.
- IV. CONTINUATION OF STUDY: The Legislative Research Commission should be authorized to continue this study and report to the 1984 Session of the 1983 General Assembly and to the 1985 Genreal Assembly.

INTRODUCTION

The Legislative Research Commission, created by Article 6B of General Statutes Chapter 120, is authorized at the direction of the General Assembly "to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assbmbly in performing its duties in the most efficient and effective manner" and "to report to the General Assembly the results of the studies made," which reports "may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations." G.S. 120-30.17. The Commission is chaired by the Speaker of the House and the President Pro Tempore of the Senate, and consists of five Representatives and five Senators, who are appointed respectively by the Cochairmen.

G.S. 120-130.10(a).

On the authorization of the 1981 General Assembly, the Legislative Research Commission has undertaken studies of twenty-seven matters, which have been arranged into eleven Groups according to related subject matter. See Appendix A for a list of the Commission members. Pursuant to G.S. 120-30.10(b) and (c), the Commission Cochairmen appointed study committees consisting of legislators and public members to conduct the studies. Each member of the Legislative Research Commission was delegated the responsibility of overseeing one group of studies and causing the findings and

recommendations of the various study committees to be reported to the Commission. In addition, one Senator and one Representative from each study committee were designated Cochairmen. See Appendix B for a list of the Insurance Study Committee members and staff.

During the first regular session of the 1981 General Assembly, a number of insurance study bills and resolutions were introduced. Three of these measures (HB 1071, HJR 1198, and HJR 1328) were consolidated and incorporated by reference into House Joint Resolution 1292 (Resolution 61), which authorized the Legislative Research Commission to study these and other matters. In addition, language was added to Section 1(10) of HJR 1292 that authorized the Commission to study the feasibility of creating within the Department of Insurance a board that would regulate all aspects of insurance. HJR 1292 authorized the Commission to make an interim report to the June, 1982 Session of the 1981 General Assembly and a final report to the 1983 General Assembly. See Appendix C for pertinent sections of HJR 1292, HB 1071, HJR 1198, and HJR 1328.

COMMITTEE PROCEEDINGS

The Insurance Study Committee held meetings on the following dates: December 3, 1981; and February 17, March 30, April 28, September 16 and 28, November 17 and 23, and December 3, 1982.

At the Committee's December 3 organizational meeting, the members were briefed on the subject matters to be studied, the reporting dates, and the powers of the Committee. Presentations were given on State government risk management (Secretary of Administration Jane Patterson); credit insurance (Committee Counsel Kenneth Levenbook); and 1981 insurance legislation and subsequent administrative hearings and court decisions (Committee Counsel William Hale).

On February 17 the Committee heard presentations on credit insurance by Mr. Charles D. Barbour of the N.C. Consumer Finance Association and by Mr. Michael D. Calhoun of Legal Services of North Carolina; on insurance regulation by Commissioner Ingram, Mr. Bernard Parker of Nationwide Insurance, Mr. John McMillan of Allstate Insurance, Mr. Robert C. Paschal of State Farm Mutual Insurance, and Mr. Benjamin F. Seagle, III, of Aetna Life and Casualty Insurance; and on State risk management by Mr. Sam Newman of the State Auditor's office, Mr. William H. Stephenson, Chairman of the N. C. Industrial Commission, Mr. Harold Webb, State Personnel Director, and Mr. Herbert Lamson, Jr., of the State Attorney General's office.

On March 30 the Cochairmen put before the Committee some suggestions for the members to consider putting in the 1982 interim report, with respect to insurance regulation. Aside from technical changes, these dealt with replacing the Safe Driver Insurance Plan with the Safe Driver Reward Plan, broadening the automobile insurance classification plan,

the manner in which underinsured motorist coverage is offered, and the reports required of product liability insurers. These matters were briefly discussed, and it was agreed that the members would consider them at the next meeting. The next presentation was by Committee Counsel Susan Frost, who with Mr. Lamson, had prepared a draft of a bill that would establish a uniform procedure for administration of State employees' workers' compensation claims. Mrs. Frost explained the provisions of the bill to the members. It was then decided that the fiscal aspects of the bill would be addressed at the next meeting.

On April 28 the Committee heard a presentation by Mr. Robert Hunter, an actuary who spoke on behalf of the Department of Insurance. Mr. Hunter commented on the implementation of House Bill 7; automobile insurance rate deviations and their inapplicability to clean risks in the Reinsurance Facility; the issues raised at the March 30 meeting regarding the Safe Driver Insurance Plan and automobile classifications; and the October, 1980 report by Conning & Company entitled "Regulatory Review: Property and Casualty Industry". The Committee also heard from Mr. Gary Fisher, President of the Carolinas Association of Professional Insurance Agents, and from Mrs. Joyce B. Rodgers, Executive Director of the N. C. Dental Society. The Committee then turned to discussion of the draft of the State employees' workers' compensation bill and its fiscal impact. Mrs. Linda Powell of the Fiscal Research

Division discussed this aspect with the Committee. The final order of business was the making of motions and voting on recommendations that would be made to the June 1982 Session of the 1981 General Assembly.

On September 16 the Committee held morning and afternoon sessions. Credit insurance was discussed during the morning session. Mrs. Jane Sharp of the North Carolina Consumers Council, Inc., Mr. Michael D. Calhoun of the North Central Legal Assistance Program, and Mr. Joseph Carabillo, Assistant General Counsel of the Prudential Life Insurance Company, argued for credit insurance rate reform. Mr. Samuel H. Johnson, attorney for the N. C. Merchants' Association and the N. C. Automobile Dealers' Association, and Mr. Wade Isaacs of the N. C. Automobile Dealers' Association stated that because the 1981 credit insurance legislation had been in effect only since October 1, 1981, an insufficient amount of time had elapsed to make any meaningful analysis of the effect of the law.

During the afternoon session, Dr. John W. Hall, Chairman of Insurance Department at Georgia State University, appeared at the request of the Committee and made a presentation on automobile insurance rate regulation. His presentation comprised a history and summary of North Carolina's legislation, an analysis of the present rate regulation system, and recommendations that he thought would improve the system.

Dr. Hall was retained by the 1977 General Assembly as a consultant to assist the House and Senate Insurance Committees during part of that Assembly's first session. After the laws have been amended and changed to some extent. After the Insurance Study Committee examined some of the statements that had been made by the Supreme Court of North Carolina and by the Commissioner of Insurance, it was the feeling of this Committee that it would be helpful if Dr. Hall could evaluate for the Committee the changes in the insurance laws that have been made since 1977. Also, the Committee wanted his opinion on how the laws were working and any recommendations he might have.

Dr. Hall stated that his presentation was divided into three parts. Part I was a history of North Carolina's insurance legislation, related primarily to private passenger automobile insurance, with the essential characteristics of each regulatory system. Dr. Hall began with the rate regulation system in effect from 1945 to 1977, which was the "prior approval" type with mandatory bureau rate filings. In 1973 the N. C. Motor Vehicle Reinsurance Facility was established. Dr. Hall reviewed the problems that have arisen since then. He commented on the comprehensive rewrite of the rate regulation and Facility laws by the 1977 General Assembly. Finally, Dr. Hall detailed amendments and new laws enacted by the 1979 and 1981 General Assemblies that dealt with rate regulation and the Facility. He stated that "with a certain few notable exceptions, legislative improvements have been made in the rate regulatory law and in Facility operation. The General Assembly, on the whole, has acted constructively to improve the situation from the viewpoint of

most consumers and the private insurance mechanism."

Dr. Hall stated that Part II of his presentation attempted to analyze the present situation, noting changes that have occurred since his 1977 Report, and to make suggestions. He prefaced his comments by stating that "while there remains an automobile insurance problem of great significance, there is less of an 'insurance crisis'" and "except for the regulatory atmosphere, the climate of this State for a vigorous insurance business serving the public interest has to be one of the most favorable in the United States." Some of the problems presented were: The continued lack of communications among the Commissioner of Insurance, the General Assembly, and insurance companies; underwriting results (although they have been somewhat improved by the "file and use" rate regulation legislation of 1977); the single rate structure, which is complicated by the simplistic automobile insurance classification system; unfair discrimination in premium pricing - i.e., age and gender, and "clean" and "pointed" risks; Facility losses and loss recoupment; rate caps; the absence of competitive rating; compulsory liability insurance; and uninsured and underinsured motorist coverages.

Dr. Hall pointed out that Congress is considering the issue of using age and gender differences in setting premium charges. It is his recommendation that, if Congress fails to act, that North Carolina should change its law to permit such provable premium differences to exist. Some of Dr. Hall's recommendations were: Maintain the concept of a designated Facility loss recoupment; treat "clean risks" outside and inside the Facility equitably by repealing legislation dealing with "clean risks", treat "pointed

"risks" within and without the Facility fairly by amending the law to require that all Facility loss recoupment be charged against all policyholders proportionately to their premium amount prior to recoupment; drop rate caps altogether--but if a cap must be continued, it should be a variable based upon an index; enact a competitive rating law which, in his opinion, would be politically the most expedient way to correct all of the problems he has enumerated; repeal the compulsory liability insurance law, because it increases insurance rates for reasonable drivers regardless of their income; and in lieu of compulsory liability insurance, Dr. Hall recommended that both uninsured and underinsured motorist coverages be mandated, for persons who opt to purchase liability insurance.

In Dr. Hall's conclusion, he referred the Committee to the recent New York Report of the Executive Advisory Commission on Insurance Industry Regulatory Reform and stated that serious consideration and enactment of its recommendations was vital to the continuation of state insurance regulation.

On September 28 the Committee addressed the subject of State risk management. Mr. Taylor Hendrickson, who is Director of the Division of Risk Management for the State of New Mexico, appeared at the request of the Committee.

Mr. Hendrickson described risk management by stating that it protects the State's assets by reducing the potential for loss, effectively handling the losses that occur, and financing the cost in the best possible manner. He stated that in a business context, risk management was not new; however, government has been slow to utilize this concept. Mr. Hendrickson pointed out that 90% of the

largest Fortune 1300 corporations in the country utilize such a program. He explained that at the time New Mexico enacted its program (1976), only three of thirteen western states - Washington, Arizona, and California - also had similar programs. Since then, eight more western states have followed suit, and all are presently reviewing and revising these programs. An example of this is evidenced in Missouri's revised program, which has a more centralized approach. Some reasons for this growth are: The fact that liability exposures are growing (there is no limit of liability in Federal Civil Rights actions), the continuous escalation of medical care costs, and the basic problems within Social Security that need to be corrected.

Mr. Hendrickson stated that New Mexico's decision to establish its Risk Management Division was one result of losing governmental immunity. The Division is under the direction of the Secretary of the Department of Finance and Administration and works with an advisory board. The Division obtains coverage for State agencies, universities, and local government units. Law enforcement liability and medical malpractice insurance once were not available to the State; it is a responsibility of the Division to provide for these now. Mr. Hendrickson stated that there are three major groups of potential losses: (1) the State's property (buildings, bonds, investments, protected assets, boilers, vehicles, aircraft); (2) torts and civil rights (lawsuits against State employees by members of the public); and (3) fringe benefits to employees (group medical, workers' compensation, and unemployment compensation insurance). The advantages of risk management are seen in the cost savings to the State.

Mr. Hendrickson stated the accomplishments of the Division are being evidenced through the loss control program, more awareness of the loss potential, better contracts, and agency benefits; all of which showed a cost savings to the State. He summarized the objectives as being: (1) To prevent as many losses as possible through individual employee involvement and proper processes to correct hiring and firing; (2) To handle losses promptly, efficiently, and to have proper claims control to reduce losses; (3) To assess the agencies so they can budget properly; (4) To make agencies responsible for losses by assessments (past experience); and (5) To save money.

Mr. Hendrickson next explained the four steps to the risk management process: (1) risk identification, (2) risk management and evaluation, (3) risk elimination, reduction, or transfer, and (4) financing or servicing.

There are four factors involved in risk identification: Federal law requirements (civil rights, unemployment compensation); State law requirements (workers' compensation for State employees); court decisions, as exemplified by the case of Hall vs. Nevada; contractual requirements that must be abided by; and the overall operation of State government by the executive, legislative, and judicial branches through elected and appointed officials, whose exposure to civil liability can be great.

The second step in the risk management process is risk management and evaluation. Loss data is gathered, which assigns probability by use of a mathematical formula. Predictions are based on changing conditions that consider such questions as: Is it a high

or low loss potential? Will the injury be serious or minor?
Is the loss frequency high or low?

The third step is risk elimination, reduction, or transfer. The questions involved here are how to weigh the public good against the cost of handling an operation and how to evaluate the loss potential. If there is a hazardous area in which the State should not engage, then the indemnification could be handled through private underwriting. Reduction involves loss control, physical exams, safety devices, and care in writing procedures. Transfer involves "hold-harmless" agreements with licensed people, additional insured endorsements, and certain mandated insurance coverages.

The last step concerns financing and services, and the question becomes "How?". This can be accomplished through buying insurance, a combination of buying insurance and self-insuring, or self-insuring. Various services are needed, such as claims services, loss control services, etc.. Thus, the concept is to self-insure what the State can afford to handle except where the insurance market is favorable.

On November 17 the Committee heard a presentation on credit insurance by Mr. Bud H. Rea, Senior Vice President of the American Heritage Life Insurance Company in Jacksonville, Florida. Mr. Rea discussed the offering and issuing of credit insurance by small loan companies and the economic factors with which lenders must deal in issuing credit insurance. He suggested a moratorium on credit insurance legislation for a reasonable period of time in order to properly address any changes to be made.

The next presentation was made by Mrs. Susan H. Frost, Committee Counsel, who summarized and explained Mr. Hendrickson's remarks on State risk management for the Committee members who were not able to attend the September 28 meeting.

The final presentation was made by Mr. William Hale, Committee Counsel, who provided the Committee with a topical outline of all of the recommendations for changes in insurance regulation that had been made by the various speakers at previous Committee meetings. Mr. Hale explained each recommendation that had been made by the Commissioner, by representatives of property and casualty insurance companies, by Dr. Hall, and by Committee members.

On November 23 the Committee heard presentations on State risk management from Mr. Henry L. Bridges, who was the State Auditor from 1947 until 1981; Mr. Kenneth P. Dixon, who is Deputy Commissioner of Insurance, manages the State Property Fire Insurance Fund, and procures insurance of many types and bonds for State government agencies; Mr. Michael G. Allen, who is Chairman of the Insurance Advisory Committee of the N.C. Association of Insurance Agents, Inc.; Mr. Everette Arnold, CPCU, who serves as Risk Manager for the City of Greensboro; and Dr. Joseph E. Johnson, Professor and Head of the Department of Business Administration at the University of North Carolina at Greensboro.

The Subcommittee on Agents' Licensing reported its findings to the full Committee at this time. The report is attached to the November 23 minutes.

At the request of the Committee, Mrs. Susan H. Frost, Committee Counsel, briefed the Committee on the recommendations of the Governor's Task Force on Drunken Drivers and of the Governor's Crime Commission with respect to driving under the influence. The purpose of this presentation was to inform the Committee about recommendations that, if enacted, could have a direct effect on automobile insurance.

On December 3 the Committee held its final meeting. The first order of business was a summary by Mrs. Frost and approval for recommendation by the Committee of legislation that would establish (1) a uniform procedure for the administration of workers' compensation claims of State employees and (2) a State Employees' Workers' Compensation Fund to pay benefits to State employees as authorized by the North Carolina Workers' Compensation Act (General Statutes Chapter 97).

The second order of business was a summary by Mr. Hale and approval for recommendation by the Committee of varied insurance regulation legislation comprising the following matters:

- (1) The monetary threshold for property damage under the Safe Driver Insurance Plan point system;
- (2) Reports by product liability insurers made with the Department of Insurance;
- (3) Group health insurance continuation and conversion privileges;
- (4) Underinsured motorist coverage; and
- (5) Obsolete, unclear, and unconstitutional insurance statutes.

The third order of business was a discussion among Committee members and visitors of the merits of competitive rating for automobile, homeowners, and workers' compensation insurance lines. The Committee examined a competitive rating bill draft similar to the bill that was introduced by Senator Wynne during the 1981 General Assembly's first regular session. It was mentioned that Dr. Hall had recommended competitive rating for these lines. The main difference between the present system and that under the bill draft is that the insurance companies would have to individually file their rates with the Commissioner. The bill draft also answered one of the North Carolina Supreme Court's criticisms by spelling out what excessive, inadequate, and unfairly discriminatory rates are. The bill draft would also require the Department of Insurance to monitor competition in the insurance business. Finally, strong antitrust provisions in the bill draft would supplement the existing laws.

After much discussion the Committee decided not to recommend passage of competitive rating. The consensus was that a competitive rating bill was very likely to be introduced, and further study of the appropriateness of this concept in North Carolina could be made by one or both standing insurance committees.

Details of all of the Committee's meetings are contained in the Committee minutes, which are on file in the Legislative Library. These minutes include descriptions of the proceedings of the meetings, copies of all documents that were distributed, and the names and affiliations of persons who attended the meetings.

FINDINGS AND RECOMMENDATIONS

I. INSURANCE REGULATION

- A. The Motor Vehicle Reinsurance Facility law should be amended to spread Facility loss and clean risk recoupment surcharges, when necessary, among all motor vehicle insurance policies. In 1981 the General Assembly enacted Session Law Chapter 916 (House Bill 7), which provided that such recoupment surcharges could be levied only against policies to which Safe Driver Insurance Plan (SDIP) points had been assigned. These SDIP points are assigned by the insurer when a driver is convicted of or receives a prayer for judgment continued for a moving traffic violation or negligently causes property damage, personal injury, or death with his automobile. Once SDIP points have been assigned, the insured pays a percentage SDIP surcharge, depending on the number of points accumulated. SDIP points are dropped three years after they are assigned to a policy. By law the Facility cannot make a profit nor sustain a loss. If its losses (claims paid and expenses) exceed its premium income, it may recover (recoup) the difference from the automobile insurers that compose the Facility, which in turn surcharge their policyholders. This is the Facility loss recoupment surcharge. In 1979 the General Assembly provided that if a policy that had

no SDIP points (a "clean risk") was ceded (turned over) to the Facility by a company that was not willing to fully assume the risk of loss from that policy, then that policy would not be charged the higher Facility rate. By law the Facility makes its own rate filings with the Commissioner as if it were another insurance company. Its own collective experience is used for setting its rates. By law the Facility rates are supposed to be "actuarially sound and self-supporting". Under sound actuarial principles, these "clean risks" would be paying the Facility rates. Realizing this, the 1979 General Assembly also provided that the Facility could recover, through the same surcharge procedure for its losses, the difference between the actual rates charged "clean risks" in the Facility and the actuarially sound and self-supporting rates the "clean risks" should be charged. This is the "clean risk" surcharge.

Under the surcharge provisions of House Bill 7, the price of a policy to which any SDIP points have been assigned has four components: The base premium, the SDIP surcharge, the Facility loss recoupment surcharge, and the "clean risk" surcharge. The price of a policy to which no SDIP points have been assigned is only the base premium.

The surcharges for Facility losses and "clean risks" in the Facility are set at percentages of the sum of the

base premium and the SDIP surcharge. The Committee fears that this "piggybacking" of surcharges might force some people with numerous SDIP points to drive without insurance. Under our compulsory automobile liability insurance law, it is only a misdemeanor to drive a car without insurance coverage or other proof of financial responsibility. The Committee also feels that the purpose of insurance rates and surcharges is to spread the risk of loss among the driving public and not to punish those who have less than favorable driving experience by increasing their financial burdens.

- B. The monetary threshold for property damage under the Safe Driver Insurance Plan (SDIP) point system should be increased from two hundred to five hundred dollars. Two SDIP points are assigned for accidents caused by a policyholder that result in damage in excess of two hundred dollars to the policyholder's automobile or to any property not owned by the policyholder. For property damage that amounts to two hundred dollars or less, one SDIP point is assigned. Since this dollar threshold was established in 1969, the annual inflation rate for automobile body repairs has generally been a double-digit rate. The Committee is of the opinion that two hundred dollars is no longer a realistic threshold for automobile damage repair costs, especially in light of the percentage difference in the SDIP surcharge between one and two SDIP

points. For example, under the current Plan, a one-automobile policy with an experienced operator (that is, two or more years of driving experience) is surcharged ten percent for one SDIP point and forty percent for two SDIP points.

- C. The statutory provision requiring insurers writing product liability insurance in North Carolina to report their underwriting experience for North Carolina insureds should be revised to require only the filing of the National Association of Insurance Commissioners (NAIC) reporting supplement. At the same time G.S. 58-21.2 was enacted (1979), the NAIC adopted a uniform product liability reporting supplement to the annual statement filed by insurers with the various state insurance regulators. This supplement provides extensive data for each state on premiums, losses, and dividends. In addition, the supplement provides detailed financial data on underwriting and expenses on a countrywide basis. Countrywide data is appropriate because product liability insurance is often sold on a countrywide basis. The products of most manufacturers are distributed throughout several or all states, and the claims that result from such incidents might be brought in the state where manufactured, where sold, where the product is used, or in a state where the injured party resides, depending on the applicable federal or state jurisdictional laws. Thus, collecting information on product liability experience

in a particular state cannot accurately show whether the state's products are causing more or less claims than in the past, and cannot reveal whether the insureds in that state are paying too much or too little for their product liability insurance coverages.

- D. The statutory provisions on underinsured motorist coverage are unclear with respect to insurer subrogation rights, multiple claimants, insolvent insurers, and other legal ramifications. It was apparently the intent of the 1979 General Assembly that underinsured motorist coverage should be applied in the same manner as uninsured motorist coverage. The second sentence of G.S. 20-279.21(b)(4) indicates that intent. A repeal of that subdivision and an amendment to the uninsured motorist statute that would define and include underinsured motor vehicles with uninsured motor vehicles would carry out this intent and eliminate the confusion among insurers, consumers, and the courts.
- E. The provision in the group health insurance continuation and conversion privileges that restricts conversion policy rate filings to one every two years should be repealed. Under G.S. 58-254.47(c), loss ratios for conversion policies may not be less than 60%, and if a loss ratio in excess of 80% is incurred by an insurer, he may increase the premium rates to a level that will produce an 80% loss ratio (eighty cents in claims paid for every dollar of premium income). However, rate

filings may not be made more often than once every two years beginning on January 1, 1984. In health insurance it is very difficult to estimate, even annually, a premium rate that will produce an 80% loss ratio. If premium rates cannot be adjusted more frequently than once every two years, large premium increases usually result. It then becomes more difficult for a policyholder who has terminated employment to budget and pay for large increases, particularly unexpected ones. This two-year provision would be counterproductive because it would often cause insureds to cancel their insurance policies, leaving them without medical insurance. Another problem with this provision is that an average premium rate for a two-year period in an inflationary economy would actually represent a rate that is greater than that required in the second year. Many insureds who purchase conversion policies do not retain them for long periods of time because they obtain group coverage when they are employed again. In most cases more people could purchase the protection they need at a lower cost if rate filings were allowed to be made more frequently. More frequent rate adjustment would be in the best interests of the majority of the holders of conversion policies because they would benefit new applicants who remain covered for short periods of time as well as those who retain their policies for longer periods because of poor health.

- F. Clarification is needed in the applicability clause in the group health insurance continuation and conversion privileges law. Some health insurers, it has been reported, are interpreting the language so as to render the law not applicable to group health policies that have been renewed but not amended after the law's effective date, which was January 1, 1982. This was not the intent of the 1981 General Assembly. In order to correct this misinterpretation, the law should be clarified.
- G. Insurance laws that have been declared unconstitutional should be removed from the statute books. G.S. 58-44.6, which purports to give the Commissioner the power to impose a civil penalty for violation of General Statutes Chapter 57 and 58, and Article 18C of General Statutes Chapter 58, which created the Health Care Liability Re-insurance Exchange, have both been declared unconstitutional by the Supreme Court of North Carolina. There is therefore no point in continuing to publish these provisions in the General Statutes of North Carolina.
- H. Insurance statutes that contain obsolete or incomplete references should be amended accordingly.
- I. The 1983 General Assembly should examine the laws and regulations governing the procedure for licensing insurance agents and brokers. The Committee believes that the following items need attention during the appropriations and finance processes:

- (1) The dollar amount and allocation of license and examination fees. The dollar amounts of these fees have not been changed since 1955. The revenue from these fees goes directly into the General Fund. The Department of Insurance has suggested the possibilities of raising these fees and providing that the fee revenue be allocated to the Department's Licensing Division.
- (2) The terms of agents' and brokers' licenses. Presently each license has a term of one year. The Department has suggested that increasing the license term to two years would eliminate much unwarranted paperwork for license renewals. If this measure is enacted by the General Assembly, the renewal fee would have to be at least doubled to avoid any loss of revenue.
- (3) Modernization of office equipment in the Department's Licensing Division. The Division personnel, with the exception of the use of typewriters, calculators, and an addressograph machine, manually process all of the agent and broker license applications, examinations, renewals, and cancellations. With an enormous volume of paperwork, the Division personnel surprisingly do not have any word or data processing equipment at their disposal. The Division maintains anywhere

from 65,000 to 70,000 active folders, and there are about 100,00 inactive folders.

II. STATE GOVERNMENT RISK MANAGEMENT

- A. A State Employees' Workers' Compensation Office should be established in the Department of Justice, which would handle all claims brought by State employees; and a State Employees' Workers' Compensation Fund should be established, which would be the source of payment for such claims. The Department of Crime Control and Public Safety and the Department of Transportation should be exempted from this proposal because of the peculiar requirements of the Law Enforcement Officers' Salary Continuation Plan and the Federal Highway Administration. The Committee heard testimony from representatives of the Department of Justice and of the Industrial Commission concerning the present handling of workers' compensation claims made by State employees. The Committee found that: No uniform system for handling these claims presently exists among State agencies; in some agencies claims are handled by trained employees, while in other agencies claims are handled by personnel with no experience and training in workers' compensation law; some agencies always have claims reviewed by the Attorney General, while other agencies never do so; the lack of uniform treatment of claims results in some claims being denied that should have been paid, while some workers receive benefits who should not; the Department of Justice should be involved

in the processing of all claims from their initial stages rather than only being involved in representing the State in any ensuing lawsuits.

- B. No change should be made at this time with regard to risk management for the State. The Committee heard testimony from Secretary Patterson of the Department of Administration, Mr. Taylor Hendrickson, Director of the Risk Management Division of the State of New Mexico, and other proponents of an enhanced risk management system for the State of North Carolina. The Committee also heard testimony from representatives of the Departments of Insurance and Justice and other groups, who opposed any change in the present system. The Committee found that risk management improves a State's financial situation by allowing selection of the most cost-effective insurance coverages and by aiding in reduction of potential losses. The Committee found that the State's present system allows for risk management techniques to be used in selecting types of insurance coverages.

- III. CREDIT INSURANCE: Additional time should be allowed for the collection of data on credit insurance loss experience; and the General Assembly should not consider any further changes in credit insurance laws until 1985 at the earliest.

The representatives of the insurance companies writing credit insurance and the merchants and lenders providing credit insurance to their customers indicated that the 1981 General Assembly had made major modifications in the form of

credit insurance policies and the manner in which credit life insurance could be sold, eliminating most of the actual or perceived abuses connected with credit insurance. These major changes would have significant impacts on the cost of providing and selling credit insurance; and since the amendments to the General Statutes were only effective on or after October 1, 1981, not enough time had elapsed to provide sufficient experience upon which to base a recommendation for the changing of premium rates that are authorized by the statutes. They also pointed out that the 1981 General Assembly had also modified the statutes governing credit accident and health and credit property insurance.

Representatives of the consuming public informed the Committee that the costs on savings caused by the 1981 amendments and the loss ratios incurred in all types of credit insurance could be calculated and should be used as a basis for recommending a reduction in the maximum premium rate allowed by statute to the 1983 General Assembly.

IV. CONTINUTATION OF STUDY: The Legislative Research Commission should be authorized to continue this study and report to the 1984 Session of the 1983 General Assembly and to the 1985 General Assembly. All facets of this study need further examination during the period between legislative sessions. Past experience has shown that printed study reports provide the General Assembly (1) needed background about legislation that is introduced and (2) information with which legislative

deliberation can begin. When there has been no consideration or study of matters prior to a legislative session, much valuable session time is often required to acquire such information.

With respect to insurance regulation, much of the Committee members' and staff's time was preempted in the interim by reapportionment. More significantly, this complicated subject requires constant monitoring and attention when the General Assembly is not in session.

Because the Committee has recommended that legislative action on credit insurance and State government risk management be held in abeyance until a later date, it is important that these subjects be further examined in order for the next General Assembly to have the benefit of careful study before it considers future recommendations.

APPENDIX A
STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



MEMBERSHIP

1981-1983

Cochairmen:

House Speaker Liston B. Ramsey

Senate President Pro Tempore W. Craig Lawing

Members:

Representative Chris S. Barker, Jr.
New Bern

Representative John T. Church
Henderson

Representative Gordon H. Greenwood
Black Mountain

Representative John J. Hunt
Lattimore

Representative Lura S. Tally
Fayetteville

Senator Henson P. Barnes
Goldsboro

Senator Carolyn Mathis
Charlotte

Senator William D. Mills
Maysville

Senator Russell Walker
Asheboro

Senator Robert W. Wynne
Raleigh

APPENDIX B
STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



INSURANCE STUDY COMMITTEE

1981-83

LRC Member Responsible for Study:

Senator Carolyn Mathis
Charlotte

Committee Cochairmen:

Senator Robert W. Wynne
Raleigh

Representative Mary P. Seymour
Greensboro

Committee Members:

Senator James McClure Clarke
Asheville

Senator Donald R. Kincaid
Lenoir

Senator Sam R. Noble
Lumberton

Senator R.C. Soles, Jr.
Tabor City

Representative Richard W. Barnes
Winston-Salem

Representative R. D. Beard
Fayetteville

Representative Charles D. Evans
Nags Head

Representative LeRoy P. Spoon, Jr.
Charlotte

Committee Staff:

Ms. Linda R. Allen
Committee Clerk

Mrs. Susan H. Frost
Counsel for State Government
Risk Management

Mr. William Kenneth Hale
Counsel for Insurance Regulation

Mr. Kenneth Levenbook
Counsel for Credit Insurance

H. R. 1292

RESOLUTION 61

A JOINT RESOLUTION AUTHORIZING STUDIES BY THE
LEGISLATIVE RESEARCH COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1981 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

(10) Matters related to insurance, including:

- a. Insurance regulation (H.B. 1071 as amended — Seymour), including the feasibility of establishing within the Department of Insurance a risk and rate equity board.
- b. How the State should cover risks of liability for personal injury and property damage (H.J.R. 1198 — Seymour).
- c. Credit insurance (H.J.R. 1328 — Barnes).

Sec. 2. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1982 Session of the General Assembly or to the 1983 General Assembly, or the Commission may make an interim report to the 1982 Session and a final report to the 1983 General Assembly.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1981**

HOUSE BILL 1071

A BILL TO BE ENTITLED

AN ACT TO CREATE THE NORTH CAROLINA INSURANCE REGULATION STUDY
COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds and declares that:

(a) The North Carolina Commissioner of Insurance and the Department of Insurance are charged by law with the responsibility of oversight and regulation of insurance

companies, associations, agents, and rating organizations that are under the jurisdiction of the insurance laws of this State.

(b) The Commissioner of Insurance and the Department of Insurance have responsibilities to make and promulgate rules and regulations to effectively administer the insurance laws and fairly regulate the business of insurance in North Carolina.

(c) The scope and size of the administrative and regulatory responsibilities of the Commissioner of Insurance and the Department of Insurance have grown significantly in recent years.

(d) There have been problems in the construction, interpretation, and understanding of the insurance statutes of this State, some of which have been described by the Supreme Court of North Carolina as "confusing and unwieldy".

(e) There have been problems in and criticisms of the State's system and methods of regulation of the business of insurance.

Sec. 3. The Study Commission is directed to review and analyze:

(a) All aspects of administration and organization within the Department of Insurance. Such study shall include appropriate evaluations of staffing, management, fiscal control, licensing of agents, adjusters, and companies, filings, and hearing procedures; the powers, duties, and proper role of the Commissioner of Insurance; and such other matters as are generally related to the effective and statutory execution of the responsibilities of the Department of Insurance and the Commissioner of Insurance.

(b) The form, style, and intelligibility of the North Carolina General Statutes concerning insurance and the manner in which such statutes can be rewritten and recodified to improve them in this regard.

(c) The various systems and methods of insurance regulation in this State and in other states.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1981

HOUSE JOINT RESOLUTION 1198

A JOINT RESOLUTION REQUESTING THE GOVERNOR TO ESTABLISH A RISK MANAGEMENT STUDY COMMISSION.

Whereas, the doctrine of sovereign immunity is no longer in vogue; and

Whereas, the State of North Carolina has previously enacted a Torts Claim Act, G.S. 143-291; and

Whereas, the State processes claims each year totaling several millions of dollars under the above referenced statute; and

Whereas, the State also pays premiums of a comparable amount to private insurance companies each year; and

Whereas, there never has been conducted a full and comprehensive risk analysis covering the State's activities; Now, therefore, be it resolved in the House of Representatives, the Senate concurring:

Sec. 2. The Risk Management Study Commission shall evaluate those risks and review all effective ways of coping with them, including risk retention, self-insurance, risk minimization or elimination and commercial insurance.

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 1981

HOUSE JOINT RESOLUTION 1328

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY CREDIT INSURANCE.

Whereas, the purchase of credit insurance allows a borrower to assure that the debt will be repaid in case of death, disability, or property damage; and

Whereas, the sale of credit insurance is of great importance in the economy of this State; and

Whereas, credit insurance policies are written pursuant to Article 32 of the General Statutes Chapter 58;
Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is authorized to study credit insurance in North Carolina.

Sec. 2. The Commission is authorized to study matters including but not limited to: the availability of credit insurance; the amount of premiums charged for credit insurance; the marketing of credit insurance; and the terms and conditions upon which credit insurance is issued.

APPENDIX D
INSURANCE REGULATION RECOMMENDATIONS
A THROUGH H

A BILL TO BE ENTITLED

AN ACT TO AMEND THE INSURANCE LAWS CONCERNING MOTOR VEHICLE REINSURANCE FACILITY RECOUPMENT SURCHARGES, THE SAFE DRIVER INSURANCE PLAN, PRODUCT LIABILITY INSURER REPORTS, UNDERINSURED MOTORIST COVERAGE, GROUP HEALTH INSURANCE CONTINUATION AND CONVERSION PRIVILEGES, AND CLARIFYING AND OTHER TECHNTICAL CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-248.34(f) is rewritten to read:

"(f) The plan of operation shall provide that every member shall, following payment of any pro rata assessment, commence recoupment of that assessment by surcharging motor vehicle insurance policies issued by the member until the assessment has been recouped. Such surcharge shall be a percentage of premium adopted by the Board. If the amount collected during the period of surcharge exceeds assessments paid by the member to the Facility, the member shall pay over the excess to the Facility on a date specified by the Board. If the amount collected during the period of surcharge is less than the assessments paid by the member to the Facility, the Facility shall pay the difference to

the member. Except as hereinafter provided, the amount of recoupment shall not be considered or treated as a rate or premium for any purpose. The Board shall adopt and implement a plan for compensation of agents of Facility members when recoupment surcharges are imposed; such compensation shall not exceed the compensation or commission rate normally paid to the agent for the issuance or renewal of the motor vehicle insurance policy issued through the Facility affected by such surcharge; provided, however, that the surcharge provided for in this section shall include an amount necessary to recover the amount of the assessment to member companies and the compensation paid by each member, pursuant to this section, to agents."

Sec. 2. Article 3 of General Statutes Chapter 58 is amended by adding a new section to read:

"§ 58-30.5. Chargeable accidents under Safe Driver Insurance Plan.--The subclassification plan promulgated pursuant to G.S. 58-30.4 shall provide for separate surcharges for major chargeable accidents and minor chargeable accidents. The term 'major chargeable accident' means a chargeable accident that results in (a) bodily injury or death or (b) damage in excess of five hundred dollars (\$500.00) to any combination of (i) property not owned by the applicant nor by any current resident operator and (ii) his motor vehicle. The term 'minor chargeable accident' means a chargeable accident that results in damage of five hundred dollars (\$500.00) or less to any combination of (i) property not owned by the applicant nor by any current resident operator and (ii) his motor vehicle. The North Carolina Rate

APPENDIX D

Bureau shall promulgate a revised subclassification plan to reflect the provisions of this section. Such plan shall be subject to the filing, hearing, disapproval, review, and appeal procedures before the Commissioner and the courts as provided for rates and classification plans in G.S. 58-124.20, G.S. 58-124.21, and G.S. 58-124.22. Such plan shall apply only to chargeable accidents that occur on or after January 1, 1984. With respect to any chargeable accident occurring prior to January 1, 1984, the surcharge and period for which such surcharge is applied and collected shall be determined by the subclassification plan in effect at the time such chargeable accident occurs."

Sec. 3. G.S. 58-21.2 is rewritten to read:

"§ 58-21.2. Reporting of product liability experience.--Every insurer providing product liability insurance or excess insurance above self-insurance to one or more manufacturers, sellers, or distributors in this State shall file with the Commissioner, along with the insurer's annual statement, a report containing the information that is listed on the product liability insurance supplement as promulgated and amended by the National Association of Insurance Commissioners."

Sec. 4. G.S. 20-279.21(b)(4) is repealed.

Sec. 5. G.S. 20-279.21(b)(3) is amended by adding the following paragraph:

"For the purposes of this section, the term 'uninsured motor vehicle' shall include an 'underinsured motor vehicle', which means a motor vehicle with respect to the ownership, maintenance, or use of which, the sum of the limits of liability under all

bodily injury liability bonds and insurance policies applicable at the time of the accident is less than the applicable limits of liability under this insurance coverage."

Sec. 6. G.S. 58-254.47(c) is amended by deleting lines 12 and 13 and by rewriting line 11 to read: "new rates with the Commissioner."

Sec. 7. Section 2 of 1981 Session Laws Chapter 706 is amended in line 2 by inserting immediately before the words, "or amended" the following: "renewed,".

Sec. 8. G.S. 58-44.6 is repealed.

Sec. 9. Article 18C of General Statutes Chapter 58 is repealed.

Sec. 10. G.S. 58-248.33(d), as found in the 1981 Cumulative Supplement, is amended in line 20 by substituting the word, "Professional" for the word, "Mutual"; and in line 21 by striking therefrom the following: ", North Carolina Division".

Sec. 11. G.S. 58-248.33(b)(3), as found in the 1981 Cumulative Supplement, is amended by rewriting the last line to read: "Rate Bureau."

Sec. 12. G.S. 58-124.17(1) is amended in the first line by adding after the word, "Carolina" the words, "Fire Insurance".

Sec. 13. G.S. 58-248.27 is amended in line 2 by inserting the words, "Motor Vehicle" between the words, "Carolina" and "Reinsurance".

Sec. 14. Any adjustments in rates for nonfleet private passenger motor vehicle insurance to offset any reduction in premium level due to the implementation of the provisions of

APPENDIX D

Section 2 of this act shall be made through adjustments to the base rates for the affected coverages. Such adjustments shall be filed by the North Carolina Rate Bureau with the Commissioner of Insurance in accordance with the standards and procedures of Articles 12B and 25A of General Statutes Chapter 58. In no event shall such adjustments be deemed to be changes in the total combined general rate level within the meaning of G.S. 58-124.26.

Sec. 15. Section 7 of this act shall apply to all group policies, as defined in G.S. 58-254.35(1), that are delivered, issued for delivery, renewed, or amended after the effective date of this act.

Sec. 16. Section 1 of this act shall become effective on October 1, 1983. The remaining sections of this act are effective upon ratification.

INTRODUCED BY:

State Government Risk Management
Recommendation A and Fiscal Information

Referred to:

A BILL TO BE ENTITLED

2 AN ACT TO ESTABLISH A STATE EMPLOYEES' WORKERS' COMPENSATION
3 FUND AND TO SET THE PROCEDURES FOR THE HANDLING WORKERS'
4 COMPENSATION CLAIMS OF STATE EMPLOYEES.

5
6 The General Assembly of North Carolina enacts:

Section 1. Chapter 97 of the General Statutes is amended by adding new sections to read:

"S 97-7.1. State Employees' Workers' Compensation Fund.--

10 (a) In order to consolidate and make more effective the State's
11 self-insurance of workers' compensation as provided by G.S. 97-7,
12 there is hereby created a State Employees' Workers' Compensation
13 Fund ('Fund'), the income and principal of which shall be used
14 to provide for the payment of benefits to State employees
15 including compensation and medical expenses as authorized by
16 this Chapter. The State Treasurer shall be the custodian of
17 the Fund and shall invest its assets in accordance with
18 G.S. 147-69.2 and G.S. 147-69.3.

19 (b) The Attorney General or his designated representative
20 shall administer the Fund in the following manner:

21 (1) He shall represent State agencies in connection with
22 claims asserted against them pursuant to this Chapter.

23 (2) He shall authorize the payment of benefits to State
24 employees when appropriate pursuant to this Chapter.

1 (3) He may settle workers' compensation claims made
2 against the State in the manner prescribed for the settlement of
3 claims in this Chapter.

4 (4) He shall collect all money owed to the State as a
5 result of the subrogation of third party claims pursuant to
6 G.S. 97-10.2 and deposit this money in the Fund.

7 (5) He shall, when the Fund is depleted, request additional
8 funds from the Council of State to come from the Contingency
9 and Emergency Fund in the manner prescribed by G.S. 143-12.

10 (c) The Salary Continuation Plan for Certain State Law Enforce-
11 ment Officers as found in Article 12B of Chapter 143 of the
12 General Statutes shall be the source for the payment of all
13 workers' compensation claims made against the State by those
14 employees covered by the plan.

15 "G.S. 97-7.2. Advisory Board on State Employees' Workers'
16 Compensation.--(a) There is established an Advisory Board on
17 State Employees' Workers' Compensation which shall meet at
18 the call of the Chairman to study and review the status of
19 the State Employees' Workers' Compensation Fund, the number
20 and status of claims made by State employees, and the statutes
21 relevant to State liability for workers' injuries. The Board
22 shall advise the Attorney General, the Industrial Commission,
23 and State agencies on matters relating to workers' compensation
24 for State employees.

25 (b) The Board shall consist of:

- 26 (1) the Attorney General, acting as chairman;
27 (2) the Chairman of the Industrial Commission;
28 (3) the State Personnel Officer;

- 1 (4) the State Budget Officer; and
2 (5) the State Treasurer.

3 Sec. 7. There are hereby enacted new sections, to read:

4 "§ 97-7.5. Assessments for Fund.--The Attorney General shall
5 determine the annual assessment to be charged each State agency
6 for workers' compensation coverage as herein provided. Payroll
7 information, including salary figures and classifications, shall
8 be provided by each agency to the Attorney General upon request.
9 An assessment shall be determined for each agency based on the
10 payroll information and the projected cost of workers' compensa-
11 tion coverage for the upcoming fiscal year. The assessment
12 shall be adjusted on a yearly basis to provide coverage of
13 workers' compensation benefits and the creation of adequate
14 reserves to pay benefits which may be paid as provided by law.

15 On or by June 15, 1984, and on or by June 15 of each suc-
16 ceeding year, each agency shall be notified as to the amount of
17 the assessment required to be paid to the Fund, and the amounts
18 thereof shall be provided for in the annual budgets of the
19 agencies.

20 Each State agency shall within 30 days from notice thereof
21 pay to the Fund the assessment. Delayed payments into the Fund
22 shall bear interest at the rate of six percent (6%) per annum.
23 "§ 97-7.4. Application of foregoing sections.--The provisions
24 of G.S 97-7.1, G.S. 97-7.2, and G.S. 97-7.3 shall not apply to
25 the Departments of Transportation or Crime Control and Public
26 Safety or their employees."

27 Sec. 8. G.S. 143-166.14 is amended by rewriting the first
28 sentence to read:

1 "The salary of a person entitled to benefits under this
2 Article shall be paid as long as his employment in his position
3 continues, notwithstanding his total or partial incapacity to
4 perform any duties to which he may be lawfully assigned; pro-
5 vided, however, that his incapacity is the result of an injury
6 by accident or an occupational disease arising out of and in
7 the course of the performance by him of his official duties,
8 which determination must be made by the State Workers' Compen-
9 sation Fund Office of the Department of Justice or, in the case
10 of Alcohol Law Enforcement Agents, State Highway Patrol Officers,
11 and Sworn State Law Enforcement Officers with the power of
12 arrest, by the Secretary of the Department of Crime Control and
13 Public Safety. If said incapacity continues for more than two
14 years from its inception, the person shall be subject to the
15 provisions of Chapter 97 of the General Statutes during the
16 further continuance of the incapacity."

17 Sec. 143-166.19 is rewritten to read:

18 "Upon the filing of the report, a finding shall be made as
19 to the cause of the incapacity and the extent to which the
20 claimant may be assigned to other than his normal duties.

21 (1) In the case of Alcohol Law Enforcement Agents, State
22 Highway Patrol Officers, and Sworn State Law Enforcement Officers
23 with the power of arrest, the finding shall be made by the
24 Secretary of the Department of Crime Control and Public Safety.

25 (2) In the case of an employee of the General Assembly,
26 the determination as to cause of the incapacity shall be made
27 by the State Workers' Compensation Fund Office of the Depart-
28 ment of Justice and the determination as to the assignment of

1 duties shall be made by the Legislative Services Officer.

2 (3) In the case of all other persons entitled to benefits
3 under this Article, the determination as to cause of the in-
4 capacity shall be made by the State Workers' Compensation Fund
5 Office of the Department of Justice and the determination as
6 to the assignment of duties shall be made by the Secretary or
7 other head of the department employing the claimant.

8 The finding shall determine the right of the claimant to
9 benefits under this Article. Notice of the findings shall be
10 filed with the North Carolina Industrial Commission. Unless
11 the claimant, within 30 days after he receives notice, files a
12 request for a hearing with the North Carolina Industrial Com-
13 mission on the form required by the Commission, the findings
14 shall be final. Upon the filing of a request, the North
15 Carolina Industrial Commission shall proceed to hear the matter
16 in accordance with its regularly established procedure for
17 hearing claims filed under the Workers' Compensation Fund
18 Office of the Department of Justice. An appeal from the decision
19 of the North Carolina Industrial Commission shall lie as in
20 other matters heard and determined by the Commission. Any
21 person who refuses to perform any duties to which he may be
22 properly assigned as a result of the finding of the secretary,
23 other head of the department, the State Workers' Compensation
24 Fund Office of the Department of Justice, or of the North
25 Carolina Industrial Commission shall be entitled to no benefits
26 pursuant to this Article as long as the refusal continues."

27 Sec. F. There is appropriated from the General Fund to
28 the State Employees' Workers' Compensation Fund the sum of

1 three hundred thousand dollars (\$300,000) for fiscal year
2 1984-85.

3 Sec. . . There is appropriated from the General Fund to
4 the Department of Justice the sum of one hundred twenty-eight
5 thousand four hundred sixty-seven dollars (\$128,467) for fiscal
6 year 1983-84 and the sum of one hundred twenty-two thousand
7 nine hundred forty-three dollars (122,943) for fiscal year
8 1984-85 to establish a State Employees' Workers' Compensation
9 Fund Office.

10 Sec. 7. Section 2, 6, and 7 of this act shall become
11 effective July 1, 1983. The remaining sections of this act shall
12 become effective July 1, 1984, and shall apply only to claims
13 arising on or after that date.

14

	<u>Fiscal 83-84</u>	<u>Fiscal 84-85</u>
1211 Regular Salaries	82,596	86,573
1 Claims Supervisor - 27,204		
Grade 79		
1 Chief Claims Clerk - 17,076		
Grade 68-2		
1 Secretary IV - 10,524		
Grade 59		
3 Secretary III at 9,264 - 27,792		
1811 Social Security Contributions	5,533	5,806
1821 Retirement Contributions	8,178	8,572
1831 Hosp. Ins. Contributions	3,442	3,442
phone	3,120	3,500
Office furniture & equipment	12,548	2,000
rent	5,100	5,100
off. supplies	1,250	1,250
postage	1,200	1,200
travel	3,500	3,500
computer time	2,000	2,000
	<hr/>	<hr/>
	128,467	122,943

INTRODUCED BY:

Study Continuation

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO
3 CONTINUE ITS STUDY OF INSURANCE REGULATION, CREDIT INSURANCE,
4 AND STATE GOVERNMENT RISK MANAGEMENT.

5
6 The General Assembly of North Carolina enacts:
7 Section 1. The General Assembly finds and declares
8 that:

9 (a) The North Carolina Commissioner of Insurance and the
10 Department of Insurance are charged by law with the responsi-
11 bility of oversight and regulation of insurance companies,
12 associations, agents, and rating organizations that are under
13 the jurisdiction of the insurance laws of this State.

14 (b) The Commissioner of Insurance and the Department of
15 Insurance have responsibilities to make and promulgate rules and
16 regulations to effectively administer the insurance laws and
17 fairly regulate the business of insurance in North Carolina.

18 (c) The scope and size of the administrative and regu-
19 latory responsibilities of the Commissioner of Insurance and
20 the Department of Insurance have grown significantly in recent
21 years.

22 (d) There have been problems in the construction, inter-
23 pretation, and understanding of the insurance statutes of this
24 State, some of which have been described by the Supreme Court

1 of North Carolina as "confusing and unwieldy".

2 There have been problems in and criticisms of the State's
3 system and methods of regulation of the business of insurance.

4 Sec. 2. The Legislative Research Commission is authorized
5 to review and analyze:

6 (a) All aspects of administration and organization within
7 the Department of Insurance. Such study may include appropriate
8 evaluations of: Departmental staffing, management, and fiscal
9 control; licensing of agents, adjusters, and companies; rate
10 and policy filings and hearing procedures; the powers, duties,
11 and proper role of the Commissioner of Insurance; and such
12 other matters as are generally related to the effective and
13 statutory execution of the responsibilities of the Department
14 of Insurance and the Commissioner of Insurance.

15 (b) The form, style, and intelligibility of the North
16 Carolina General Statutes concerning insurance and the manner
17 in which such statutes can be rewritten and recodified to
18 improve them in this regard.

19 (c) The various systems and methods of insurance regu-
20 lation in this State and in other states.

21 Sec. 3. The General Assembly finds and declares that:

22 (a) The doctrine of sovereign immunity is no longer
23 immune from judicial scrutiny.

24 (b) The state of North Carolina has previously enacted
25 a Torts Claim Act, and the State processes claims each year
26 totaling several millions of dollars under that Act.

27 (c) The State also pays premiums of a comparable amount
28 to private insurance companies each year.

1 (d) There never has been conducted a full and comprehensive risk analysis covering the State's activities.

3 Sec. 4. The Legislative Research Commission is authorized
4 to review all potential risks, including, but not limited to
5 property and personal liability, to which the State of North
6 Carolina might be exposed. The Commission is authorized to
7 evaluate those risks and review all effective ways of coping
8 with them, including risk retention, self-insurance, risk
9 minimization or elimination, and commercial insurance.

10 Sec. 5. The General Assembly finds and declares that:

11 (a) The purchase of credit insurance allows a borrower
12 to assure that his debt will be repaid in case of death,
13 disability, or property damage.

14 (b) The sale of credit insurance is of great importance
15 to the economy of this State.

16 (c) Credit insurance policies are written pursuant to
17 Article 32 of General Statutes Chapter 58.

18 Sec. 6. The Legislative Research Commission is authorized
19 to study credit insurance in North Carolina, including but not
20 limited to: The availability of credit insurance; the amount
21 of premiums charged for credit insurance; the marketing of
22 credit insurance; the terms and conditions upon which credit
23 insurance is issued; and the effects of recent State or federal
24 legislation on credit insurance.

25 Sec. 7. The Legislative Research Commission or any study
26 committee thereof, in the discharge of its study of insurance
27 under this act, may secure information and data under the
28 provisions of G.S. 120-19. The powers contained in the pro-

1 visions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to
2 the proceedings of the Commission or any study committee thereof
3 in the discharge of said study. The Commission or any study
4 committee thereof, while in the discharge of said study, is
5 authorized to hold executive sessions in accordance with
6 G.S. 143-318.11(b) as though it were a committee of the
7 General Assembly.

8 Sec. 8. The Commission is authorized to report its
9 findings and recommendations, together with legislation that
10 would implement its recommendations, to the 1984 Session of the
11 1983 General Assembly or to the 1985 General Assembly; or the
12 Commission may make an interim report to the 1984 Session of
13 the 1983 General Assembly and a final report to the 1985
14 General Assembly.

15 Sec. 9. This act is effective upon ratification.
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